

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1291

Introduced by Senator Beall

February 19, 2016

An act to add Sections 14717.2 and 14717.5 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as amended, Beall. Medi-Cal: specialty mental health: children and youth.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including specialty mental health services. The Medi-Cal program is, in part, governed and funded by federal Medicaid ~~Program~~ *program* provisions. Under existing law, specialty mental health services are provided by mental health plans and the department is responsible for conducting investigations and audits of claims and reimbursements for expenditures for specialty mental health services provided by mental health plans to Medi-Cal eligible individuals.

This bill would require each mental health plan, annually on or before July 1 of each year, to submit a foster care mental health service plan to the department detailing the service array, from prevention to crisis services, available to Medi-Cal eligible children and youth under the jurisdiction of the juvenile court and their families. The bill would require annual mental health plan reviews to be conducted by an external quality review organization (EQRO) and to include specific data for Medi-Cal eligible children and youth under the jurisdiction of the juvenile court and their families, including the number of Medi-Cal

eligible children and youth under the jurisdiction of the juvenile court served each year.

This bill would require the department to review the plans and the EQRO reviews and post them on its Internet Web site. The bill would also require the department to notify the mental health plan of any deficiencies and would require the mental health plan to provide a written corrective action plan to the department. The bill would also authorize the director, if he or she believes that a mental health plan is substantially failing to comply with any provision pertaining to the administration of specified benefits for children and youth under the jurisdiction of the juvenile court, to take specified action, including ~~bringing an action for injunctive relief or~~ imposing certain sanctions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14717.2 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 14717.2. (a) Each mental health plan shall submit an annual
- 4 foster care mental health service plan to the department detailing
- 5 the service array, from prevention to crisis services, available to
- 6 Medi-Cal eligible children and youth under the jurisdiction of the
- 7 juvenile court and their families. Plans shall be submitted by July
- 8 1 of each year, beginning in 2017. Prior to submission to the
- 9 department, the board of supervisors of each mental health plan
- 10 shall approve the plan. The plan shall include, but not be limited
- 11 to, all of the following elements:
- 12 (1) The number of Medi-Cal eligible children and youth under
- 13 the jurisdiction of the juvenile court served each year.
- 14 (2) The number of family members of children and youth under
- 15 the jurisdiction of the juvenile court served by the county mental
- 16 health plans.
- 17 (3) Details on the types of services provided to children and
- 18 youth under the jurisdiction of the juvenile court and their families,
- 19 including prevention and treatment services.
- 20 (4) Access to and timeliness of mental health services available
- 21 to Medi-Cal eligible children and youth under the jurisdiction of
- 22 the juvenile court.

1 (5) Quality of mental health services available to Medi-Cal
2 eligible children and youth under the jurisdiction of the juvenile
3 court.

4 (6) Translation and interpretation services available to Medi-Cal
5 eligible children and youth under the jurisdiction of the juvenile
6 court.

7 (7) Coordination with other systems, including regional centers,
8 special education local plan areas, child welfare, and probation.

9 (8) Family and caregiver education and support.

10 (9) Performance data for Medi-Cal eligible children and youth
11 under the jurisdiction of the juvenile court in the annual external
12 quality review report required by Section 14717.5.

13 (10) Utilization data for Medi-Cal eligible children and youth
14 under the jurisdiction of the juvenile court in the annual external
15 quality review report required by Section 14717.5.

16 (11) Medication monitoring.

17 (b) The department shall review the plan required pursuant to
18 subdivision (a) and shall post each plan on its Internet Web site.

19 (c) (1) If the department identifies deficiencies in a plan, the
20 department shall notify the mental health plan, in writing, of those
21 deficiencies.

22 (2) After notification, the mental health plan shall provide a
23 written corrective action plan to the department within 60 days.
24 The department shall notify the mental health plan of approval or
25 shall request changes, if necessary, within 30 days after receiving
26 the corrective action plan. Final plans shall be made publicly
27 available by, at minimum, posting on the department's Internet
28 Web site.

29 SEC. 2. Section 14717.5 is added to the Welfare and
30 Institutions Code, to read:

31 14717.5. (a) A mental health plan review shall be conducted
32 annually by an external quality review organization (EQRO). The
33 review shall include specific data for Medi-Cal eligible children
34 and youth under the jurisdiction of the juvenile court and their
35 families, including all of the following:

36 (1) The number of Medi-Cal eligible children and youth under
37 the jurisdiction of the juvenile court served each year.

38 (2) The number of family members of children and youth under
39 the jurisdiction of the juvenile court, including foster parents,
40 served by the mental health plans.

1 (3) Details on the types of services provided to children and
2 their caregivers, including prevention and treatment services.

3 (4) Access to and timeliness of mental health services available
4 to Medi-Cal eligible children and youth under the jurisdiction of
5 the juvenile court.

6 (5) Quality of mental health services available to Medi-Cal
7 eligible children and youth under the jurisdiction of the juvenile
8 court.

9 (6) Translation and interpretation services available to Medi-Cal
10 eligible children and youth under the jurisdiction of the juvenile
11 court.

12 (7) Performance data for Medi-Cal eligible children and youth
13 under the jurisdiction of the juvenile court.

14 (8) Utilization data for Medi-Cal eligible children and youth
15 under the jurisdiction of the juvenile court.

16 (9) Medication monitoring.

17 (b) (1) The department shall review the EQRO data for
18 Medi-Cal eligible children and youth under the jurisdiction of the
19 juvenile court and their families.

20 (2) If the EQRO identifies deficiencies in a mental health plan's
21 ability to serve Medi-Cal eligible children and youth under the
22 jurisdiction of the juvenile court, the department shall notify the
23 mental health plan in writing of identified deficiencies.

24 (3) The mental health plan shall provide a written corrective
25 action plan to the department within 60 days of receiving the notice
26 required pursuant to paragraph (2). The department shall notify
27 the mental health plan of approval of the corrective action plan or
28 shall request changes, if necessary, within 30 days after receipt of
29 the corrective action plan. Final corrective action plans shall be
30 made publicly available by, at minimum, posting on the
31 department's Internet Web site.

32 (c) The department shall conduct annual audits of each mental
33 health plan for the administration of EPSDT benefits for children
34 and youth under the jurisdiction of the juvenile court, unless the
35 director determines there is good cause for additional reviews. The
36 reviews shall use the standards and criteria established pursuant
37 to the Knox-Keene Health Care Service Plan Act of 1975, as
38 appropriate. The department may contract with professional
39 organizations, as appropriate, to perform the periodic review
40 required by this section. The department, or its designee, shall

1 make a finding of fact with respect to the ability of the mental
2 health plan to provide quality health care services, effectiveness
3 of peer review, and utilization control mechanisms, and the overall
4 performance of the mental health plan in providing mental health
5 care benefits to its enrollees. The director shall publicly report the
6 findings of finalized annual audits conducted pursuant to this
7 section as soon as possible, but no later than 90 days following
8 completion of a corrective action plan initiated pursuant to the
9 audit, if any, unless the director determines, in his or her discretion,
10 that additional time is reasonably necessary to fully and fairly
11 report the results of the audit.

12 (d) If the director believes that a mental health plan is
13 substantially failing to comply with any provision of this code or
14 any regulation pertaining to the administration of EPSDT benefits
15 for children and youth under the jurisdiction of the juvenile court,
16 and the director determines that formal action may be necessary
17 to secure compliance, he or she shall inform the county behavioral
18 health director and the board of supervisors of that failure. The
19 notice to the county behavioral health director and board of
20 supervisors shall be in writing and shall allow the county and the
21 mental health plan a period of time specified by the department,
22 but in no case less than 30 days, to correct the failure to comply
23 with the law or regulations. If within the specified period the county
24 and the mental health plan do not comply or provide reasonable
25 assurances in writing that they will comply within the additional
26 time as the director may allow, the director may ~~take one or both~~
27 ~~of the following actions:~~

28 ~~(1) Bring an action for injunctive relief to secure immediate~~
29 ~~compliance. A county that is found to be failing to substantially~~
30 ~~comply with the law or regulations pertaining to a program~~
31 ~~administered by the department may be enjoined by any court of~~
32 ~~competent jurisdiction. The court may make orders or judgments~~
33 ~~as necessary to secure county compliance.~~

34 ~~(2) Order~~ order a representative of the county to appear at a
35 hearing before the director to show cause why the director should
36 not take administrative action to secure compliance. The county
37 shall be given at least 30 days' notice of the hearing. The director
38 shall consider the case on the record established at the hearing and,
39 within 30 days, shall render proposed findings and a proposed
40 decision on the issues. The proposed findings and decisions shall

1 be submitted to the county, and the county shall have the
2 opportunity to appear within 10 days, at a time and place as may
3 be determined by the director, for the purpose of presenting oral
4 arguments respecting the proposed findings and decisions.
5 Thereupon, the director shall make final findings and issue a final
6 administrative decision.

7 (e) If the director determines, based on the record established
8 at the hearing pursuant to ~~paragraph (2)~~ of subdivision (d), that
9 the county is failing to comply with laws or regulations pertaining
10 to a program administered by the department, or if the Department
11 of Human Resources certifies to the director that a county is not
12 in conformity with established merit system standards under Part
13 2.5 (commencing with Section 19800) of Division 5 of Title 2 of
14 the Government Code, and that administrative sanctions are
15 necessary to secure compliance, the director may invoke either of
16 the following sanctions, except that the sanctions shall not be
17 invoked concurrently:

18 (1) Withhold all or part of state and federal funds from the
19 county until the county demonstrates to the director that it has
20 complied.

21 (2) (A) Suspend all or part of an existing contract with the
22 mental health plan and assume, temporarily, direct responsibility
23 for the administration of all or part of any programs administered
24 by the department in the county until the county provides
25 reasonable written assurances to the director of its intention and
26 ability to comply. During the period of direct state administrative
27 responsibility, the director or his or her authorized representative
28 shall have all of the powers and responsibilities of the county
29 director, except that he or she shall not be subject to the authority
30 of the board of supervisors.

31 (B) (i) In the event that the director invokes sanctions pursuant
32 to this section, the county shall be responsible for providing any
33 funds necessary for the continued operation of all programs
34 administered by the department in the county. If a county fails or
35 refuses to provide these funds, including a sufficient amount to
36 reimburse all costs incurred by the department in directly
37 administering a program in the county, the Controller may deduct
38 an amount certified by the director as necessary for the continued
39 operation of these programs by the department from any state or
40 federal funds payable to the county for any purpose.

1 (ii) In the event of a state-imposed sanction, the amount of the
2 sanction shall be no greater than the amount of county funds that
3 the county would be required to contribute to fully match the
4 General Fund allocation for the particular program or programs
5 for which the county is being sanctioned for those programs that
6 are not public safety programs realigned pursuant to 2011
7 Realignment Legislation.

8 (iii) In the event of a state-imposed sanction pursuant to this
9 paragraph for the public safety programs realigned pursuant to
10 2011 Realignment Legislation that are administered by the State
11 Department of Health Care Services, the amount of the sanction
12 shall be no greater than the amount of funding originally provided
13 to the county in the 2011–12 fiscal year for the particular program
14 from the Behavioral Services Subaccount within the Support
15 Services Account of the Local Revenue Fund 2011, as adjusted
16 by the county's share of the additional incremental funding
17 provided pursuant to paragraph (1) of subdivision (f) of Section
18 30027.5 of, paragraph (1) of subdivision (f) of Section 30027.6
19 of, paragraph (1) of subdivision (f) of Section 30027.7 of, and
20 paragraph (1) of subdivision (f) of Section 30027.8 of, the
21 Government Code, the estimated growth funding for the program
22 from the Support Services Growth Subaccount within the Sales
23 and Use Tax Growth Account, and any adjustment to the county
24 allocation pursuant to subdivision (a) of Section 30029.6 of the
25 Government Code.